IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/06/2003

CORAM

THE HONOURABLE MR.JUSTICE P.K.MISRA
AND
THE HONOURABLOE MR.JUSTICE F.M.IBRAHIM KALIFULLA

WRIT PETITION NO.12571 of 1999
and
W.M.P.No.17999 of 1999

Chief Postmaster General,
Tamilnadu Circle,
Chennai-600 002 ... Petitioner

-Vs-

1.Smt.G.Chamundeswari
2.C.K.Anandakumaran ... Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records in O.A.No.638 of 1997 dated 27.1.1999 on the file of Central Administrative Tribunal, Chennai and to quash the same.

!For petitioner ...Mr.A.S.Balaji-ACGSC.

^For respondents ...Mr.J.Narayanamoorthi

:ORDER

(Order of the court was made by P.K.MISRA, J.)

Heard the learned counsel appearing for the parties.
2.The present writ petition has been filed by the Chief Postmaster General, Tamilnadu Circle, Chennai-2 against the order dated 27.1.199 9 passed by the Central Administrative Tribunal in O.A.No.638 of 1997 giving direction that the application of the present second respondent for appointing him on compassionate ground should be considered as early as possible.

3.There is no dispute that one Mr.C.V.Karunakaran who was employed under the present petitioner died while in service, leaving behind him, his wife (first respondent), married son, daughter and unmarried son (2nd respondent). The first respondent had filed representation praying for appointment to the present second respondent on compassionate ground, which was rejected on the ground that the family was not in indigent circumstances,

inasmuch as the first son of the deceased was employed in ONGC. A subsequent application, clarifying the position was filed wherein it is indicated that in fact the eldest son, who was employed in ONGC was married and living separately and the daughter was also married and there was no earning member in the family consisting of the widow and the unmarried son of the deceased. The subsequent application was also rejected on the ground that the family was not in indigent circumstances, since there was an earning member in the family. The Central Administrative Tribunal on consideration of the stand of either party, came to the conclusion that the first son was already married and could not take any interest in the welfare of his mother and unmarried brother and rather he would look after his own family. Therefore, it has given direction to the respondents to consider the application of the second son for a suitable job in the department as early as possible.

4.Learned counsel appearing for the petitioner has contended that since admittedly the first son of the deceased was employed, it cannot be said that there was no earning member in the family.

5. It must be understood that a married man living separately from the other members of the family of the deceased, cannot be considered as member of the family. The object of giving appointment on compassionate ground is to help the members of the family of the deceased. Therefore, in such context, a married separated son cannot be considered as a member of the family of the deceased, so as to disentitle the other members of the family to make application for appointment on compassionate ground.
6.Learned counsel appearing for the petitioner has also contended that since certain pensionary benefits were made available, it cannot be said that the family was in indigent circumstances.

7.We have gone through the office memorandum dated 30.6.1987 laying down the procedure for considering the application for appointment on compassionate ground. In paragraph 1(a) to the said scheme is applicable to his son or daughter or near relative of a Government Servant, who dies in harness, leaving his family in immediate need of assistance, when there is no other earning member in the family. Further paragraph 1(b) of the said scheme provides that in exceptional cases when a Department is satisfied that the condition of the family is indigent and is in great distress, the benefit of compassionate appointment may be extended to a son or daughter or near relative of a Government Servant retired on medical grounds. Therefore, even if some assistance is available by way of pensionary benefits, it can not be said that the dependent members of the family of the deceased would not be entitled to seek for appointment on compassionate ground.

8.In the present case, the Tribunal had considered the fact that the other employed son of the deceased was married and therefore, he was not in a position to maintain the other members of the family. The meagre pensionary benefit, which was made available, cannot be held to be sufficient to reject such application of the first respondent. It is to be seen in the paragraph 1(a), there is no requirement that the family must be in indigent

circumstances, whereas it is to be seen in paragraph 1(b), when a Department is satisfied that the condition of the family is in indigent circumstances, when the Government Servant retired on medical grounds, the appointment on compassionate ground may be considered. In the present case, such question is not at all relevant as the matter comes within paragraph 1(a). The Department had erroneously rejected the application by holding that the condition of the family was not in indigent circumstances. Moreover, the Department had illegally assured that since the eldest son of the deceased was employed, the application for employment on compassionate ground has not to be entertained . As already indicated, since the first son of the deceased was married and living separately, it cannot be said that there was any other earning member in the family. It is also to be noticed that by letter dated 16.9.1995, the employer of the first son had intimated C.K.Balakumaran (first son of

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the deceased) had not declared that the present respondents as his dependents and such persons namely, the mother and brother were not getting any benefit from the first son of the deceased. Keeping in view of the above aspect, we feel that the Tribunal is justified in its direction and no interference is warranted in the order of the Tribunal. Writ petition is dismissed. No costs. Consequently, no order is necessary in W.M.P.No.17999 of 1999 and the same is closed.

Index:Yes
Website:Yes
tsv.

To
Central Administrative Tribunal,
Chennai.